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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,488	01/02/2002	Todd Newman	03650.001047	6983
5514	7590	02/16/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			ALAVI, AMIR	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	
			2621	

DATE MAILED: 02/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/032,488

Applicant(s)

NEWMAN, TODD

Examiner

Amir Alavi

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 6-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 15-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20020102</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

RESPONSE TO TRAVERSAL OF RESTRICTION

- Applicant's election with traverse of claims 1-5, and 15-18, filed 30 November 2004 is acknowledged. The traversal is on the ground(s) that the inventions are related. This is not found persuasive because the inventions are different and distinct from one another, therefore producing a burden on the Examiner to search different class and subclass,
- The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

- The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made
in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

- Claims 1, 3-5 and 15-18 are rejected under 35 U.S.C. 102(e) as being
anticipated by McCarthy et al. (USPN 6,335,983 B1).

Regarding claim 1, McCarthy et al., disclose: a first section for storing the images in a limited gamut color space (please note, column 7, lines 52-53. As indicated a second memory buffer used to store the limited color gamut digital image); a second section for storing information identifying those regions within the image that have extended gamut color values (please note, column 7, lines 50-51. As indicated storing the information describing the color adjustment function in a memory buffer); a

third section for storing the extended gamut data for regions that are identified in the second section (please note, figure 2, element 27 in correlation to column 7, lines 54-55. As indicated storing the resultant image data in a digital file 27).

Regarding claim 3, McCarthy et al., disclose wherein the data stored in a first section of the data storage format is in a TIFF format (please note, column 7, line 62).

Regarding claim 4, McCarthy et al., disclose wherein the data stored in a third section of the data storage format is in a compressed format (please note, column 8, lines 7-9).

Regarding claim 5, McCarthy et al., disclose wherein the image stored in a third section of the data storage format can be added to the data stored in a first section of the data storage format as a private tag (please note, column 7, lines 61-62).

Regarding claim 15, McCarthy et al., disclose: utilizing image data stored in a first section of the data storage format in connection with limited gamut image processing devices (please note, column 7, lines 52-53. As indicated a second memory buffer used to store the limited color gamut digital image); utilizing image data stored in all three sections of the data storage format in connection with color image processing devices which are compatible with extended gamut data (please note, column 4, line 14).

Regarding claim 16, arguments analogous to those presented for claim 5, are applicable.

Regarding claim 17, McCarthy et al., disclose, wherein the private tag is ignored by a legacy device that is incompatible with extended gamut image data (please note, column 8, line 2).

Regarding claim 18, McCarthy et al., disclose wherein the private tag and the data stored in a first section of the data storage format are utilized by a device that is compatible with extended gamut image data (please note, column 4, line 14).

Claim Rejections - 35 USC § 103

- The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over McCarthy et al. (USPN 6,335,983 B1) in view of Epstein et al. (USPN 6,741,746 B2).

Regarding claim 2, McCarthy et al., disclose: a first section for storing the images in a limited gamut color space (please note, column 7, lines 52-53. As indicated a second memory buffer used to store the limited color gamut digital image); a second section for storing information identifying those regions within the image that have extended gamut color values (please note, column 7, lines 50-51. As indicated storing the information describing the color adjustment function in a memory buffer); a third section for storing the extended gamut data for regions that are identified in the

second section (please note, figure 2, element 27 in correlation to column 7, lines 54-55. As indicated storing the resultant image data in a digital file 27).

However, McCarthy et al., do not specifically disclose, wherein the data storage format is in a JFIF format.

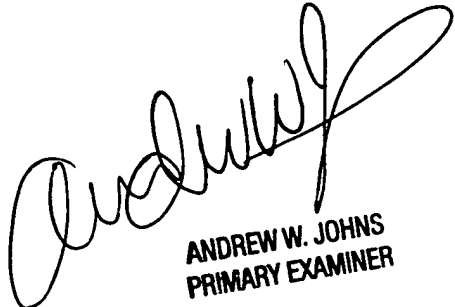
On the other hand, Epstein et al., in the same field of endeavor disclose, wherein the data storage format is in a JFIF format (please note, column 1, line 32. As indicated format for still pictures include JFIF).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize this JFIF format of Epstein et al., in McCarthy et al.'s invention, because as Epstein et al., on column 1, lines 29-30 discloses, in order for digitized images to be widely exchanged and accessed, the image information in the data file must be stored in an agreed-to format.

Contact Information

- Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amir Alavi whose telephone number is 703-306-5913.
- The examiner can normally be reached on Mon-Thu.. 8:00 am thru 6:30pm.If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Bhavesh Mehta can be reached on 703-308-5246.
- The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.
- For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AA
Group Art Unit 2621
09 February 2005



ANDREW W. JOHNS
PRIMARY EXAMINER